



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 13 2006

OFFICE OF
ENVIRONMENTAL INFORMATION

The Honorable John McCain
United States Senate
Washington, D.C. 20510

Dear Senator McCain:

Administrator Johnson has asked me to respond to your letter of November 10, 2005, regarding the U.S. Environmental Protection Agency's (EPA's) notification to Congress that we intend to initiate a rulemaking to consider modifying reporting frequency for facilities in the Toxics Release Inventory (TRI) and our recent regulatory proposal to expand the use of the TRI short reporting form (Form A). Enclosed with this letter is the information you requested on the potential implications of these actions.

As indicated in EPA's initial response to your letter, we share your belief that the TRI database is an important source of information. Your input and input from all of our stakeholders will be carefully considered as we determine how to proceed with the proposed rule.

If you have further questions, please contact me or have your staff contact James Blizzard in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-1695.

Sincerely,

A handwritten signature in black ink, which appears to read "Linda A. Travers". The signature is fluid and cursive.

Linda A. Travers
Acting Assistant Administrator
and Chief Information Officer

Enclosures



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

JAN 13 2006

OFFICE OF
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The Honorable Ron Wyden
United States Senate
Washington, D.C. 20510

Dear Senator Wyden:

Administrator Johnson has asked me to respond to your letter of November 10, 2005, regarding the U.S. Environmental Protection Agency's (EPA's) notification to Congress that we intend to initiate a rulemaking to consider modifying reporting frequency for facilities in the Toxics Release Inventory (TRI) and our recent regulatory proposal to expand the use of the TRI short reporting form (Form A). Enclosed with this letter is the information you requested on the potential implications of these actions.

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Linda A. Travers
Acting Assistant Administrator
and Chief Information Officer

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JAN 13 2006

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The Honorable James Jeffords
United States Senate
Washington, D.C. 20510

Dear Senator Jeffords:

Administrator Johnson has asked me to respond to your letter of November 10, 2005, regarding the U.S. Environmental Protection Agency's (EPA's) notification to Congress that we intend to initiate a rulemaking to consider modifying reporting frequency for facilities in the Toxics Release Inventory (TRI) and our recent regulatory proposal to expand the use of the TRI short reporting form (Form A). Enclosed with this letter is the information you requested on the potential implications of these actions.

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Linda A. Travers
Acting Assistant Administrator
and Chief Information Officer

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 13 2006

OFFICE OF
ENVIRONMENTAL INFORMATION

The Honorable Hillary Rodham Clinton
United States Senate
Washington, D.C. 20510

Dear Senator Clinton:

Administrator Johnson has asked me to respond to your letter of November 10, 2005, regarding the U.S. Environmental Protection Agency's (EPA's) notification to Congress that we intend to initiate a rulemaking to consider modifying reporting frequency for facilities in the Toxics Release Inventory (TRI) and our recent regulatory proposal to expand the use of the TRI short reporting form (Form A). Enclosed with this letter is the information you requested on the potential implications of these actions.

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Sincerely,

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Linda A. Travers
Acting Assistant Administrator
and Chief Information Officer

Enclosures



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 13 2006

OFFICE OF
ENVIRONMENTAL INFORMATION

The Honorable Barbara Boxer
United States Senate
Washington, D.C. 20510

Dear Senator Boxer:

Administrator Johnson has asked me to respond to your letter of November 10, 2005, regarding the U.S. Environmental Protection Agency's (EPA's) notification to Congress that we intend to initiate a rulemaking to consider modifying reporting frequency for facilities in the Toxics Release Inventory (TRI) and our recent regulatory proposal to expand the use of the TRI short reporting form (Form A). Enclosed with this letter is the information you requested on the potential implications of these actions.

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Sincerely,

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Linda A. Travers
Acting Assistant Administrator
and Chief Information Officer

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 13 2006

OFFICE OF
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The Honorable Barack Obama
United States Senate
Washington, D.C. 20510

Dear Senator Obama:

Administrator Johnson has asked me to respond to your letter of November 10, 2005, regarding the U.S. Environmental Protection Agency's (EPA's) notification to Congress that we intend to initiate a rulemaking to consider modifying reporting frequency for facilities in the Toxics Release Inventory (TRI) and our recent regulatory proposal to expand the use of the TRI short reporting form (Form A). Enclosed with this letter is the information you requested on the potential implications of these actions.

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If you have further questions, please contact me or have your staff contact James Blizzard in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-1695.

Sincerely,

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Linda A. Travers
Acting Assistant Administrator
and Chief Information Officer

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Attachment A: Summary of Responses to Questions 1 - 5

The following paragraphs summarize the information provided in detail in a spreadsheet format to respond to each of your information requests. Many of the analyses are intended to project the impacts of the proposed rule. EPA cannot predict with absolute certainty the impacts of the proposed rule because the proposal did not affect the general 1-million-pound limit on manufacture, process, or use of the chemical imposed for those who use Form A. This information is not reported to EPA, and so we are unable to predict whether a given facility meets the criterion. Further, experience has shown that many facilities that are eligible for Form A choose instead to use Form R, for various reasons. Our responses to information requests 1-4 are based on 2003 reporting year data, while our response to question 5 is based on 2002 data. For the final rule, we will use 2003 data.

- 1) *Request: A state by state list of the facilities that reported releases of at least one chemical between 500 and 4,999 pounds in production related waste in 2003, and their TRI releases, by chemical, to each environmental medium.*

For 2003, 6,306 facilities filed 11,875 Form Rs for approximately 300 individual TRI chemicals or chemicals categories (e.g., chromium compounds) that reported >500 pounds, but \leq 5,000 pounds of production-related waste. If the proposed rule had been in effect for this reporting year, these facilities would have had the option of using Form A in lieu of Form R for at least one chemical. Many facilities filed a Form R for more than one chemical in this range. In many instances, these facilities reported releases of TRI-chemicals to air, but did not release chemicals underground, to land or water. The full results are presented in Table 1 of the attached file.

(Note: Persistent, Bioaccumulative, and Toxic (PBT) chemicals are not included in the attached analysis for this request since the proposed regulation requires that PBT chemicals have less than 500 pounds of production related waste in addition to having 0 releases to change from Form R to Form A reports.)

- 2) *Request: Of the facilities listed in response to question 1, a state by state list of any facilities that reported releases of chemicals that are classified as known or probable (likely) carcinogens in EPA's Integrated Risk Information System or the US Department of Health and Human Services National Toxicology Program's Eleventh Report on Carcinogens.*

Of the 6,306 individual facilities and approximately 300 chemicals identified under Request 1 above, 1,289 of these facilities (about 20%) filed a total of 1,440 Form R reports for 55 individual TRI chemicals or chemicals belonging to a TRI chemical category that are currently classified as a known or probable (likely) carcinogen in either EPA's Integrated Risk Information System (IRIS) database or the U.S. Department of Health and Human Services National Toxicology Program's Eleventh Report on Carcinogens. The full results of the analysis are presented in Table 2 of the attached file.

- 3) *Request: A state by state list of the facilities that reported at least one chemical of up to 500 pounds of persistent, bio-accumulative production related waste in 2003, and their TRI releases, by chemical, to each environmental medium.*

For 2003, 1,884 facilities (less than 8% of all facilities that filed Form R reports in 2003) filed 2,521 Form R reports for at least one TRI-listed PBT chemical (other than dioxin or a dioxin-like compound) for which there were no releases to air, land or water, and for which quantities in production-related waste (i.e., quantities recycled, used for energy recovery, or treated for destruction) were 500 pounds or less. The results of the analysis are presented in Table 3 of the attached file.

(Note: EPA analyzed only those reports that showed 0 pounds of “releases and other disposal” and 500 pounds or less of “other waste management,” i.e., quantities recycled, used for energy recovery, or treated for destruction, in order to provide results consistent with the regulatory proposal, which would require 0 releases for PBT reports to be changed from Form R to Form A. In addition, the analysis does not include dioxin and dioxin-like compounds because they are excluded from the proposed changes.)

- 4) *Request: A state by state list of facilities that reported at least one TRI tracked chemical between 500 and 4,999 pounds in production related waste in 2003 at greater quantities than the company reported in the 2000 TRI. Please indicate the percentage increase.*

Of the 25,262 individual facilities that filed at least one report (Form R or Form A) to EPA for the 2003 reporting year, 2,375 (about 9%) reported quantities between 500 and 5,000 pounds in total production related waste for at least one TRI-listed chemical that were greater than the quantities that the same facilities reported for the same chemicals for reporting year 2000. The detailed results, including the percentage increase of these quantities, are presented in Table 4 of the attached file.

Total production related waste consists of quantities disposed of, or otherwise released into the environment; recycled; used for energy recovery; and treated for destruction. While these facilities reported increases in total production related waste from 2000 to 2003, these increases do not necessarily mean increases in environmental releases of TRI chemicals – they could also be attributed to increases in quantities recycled, used for energy recovery, or treated for destruction.

(Note: The analysis does not include PBT chemicals, because PBT chemicals would be ineligible to switch to Form A unless the report showed 0 pounds of releases and total production related waste was less than 500 pounds.)

- 5) *Request: A detailed breakout of EPA’s burden reduction estimates and associated savings gained through expanded use of Form A in light of facility’s continued need to track annual volumes of production related waste to determine eligibility for Form A.*

The current estimate for both the total burden reduction in hours and total cost savings through the expanded use of Form A for both PBT and non-PBT chemicals is discussed below and itemized in Table 3-1 of the economic analysis for the proposed rule and attached to this reply as Appendix B. These estimates were based on data facilities submitted for the 2002 reporting year. More detail on these estimates can be found in Chapter 3 of the economic analysis of the proposed rule, which is available in the public docket of this rule (docket number TRI-2005-0073 at <http://www.regulations.gov>).

Since 1995, when Form A first became available, EPA has used an estimate that Form A

completion and calculation time is approximately 64 percent of Form R completion and calculation time. The Agency also used this estimate in completing its burden estimate for the proposed rule. Facilities that would be newly eligible to use Form A and did so would benefit from burden savings in several ways. First, there are many data fields in Form R and not in Form A that are not related to estimating the annual volumes of production-related waste that nonetheless require time and resources to complete. Examples of these fields include, but are not limited to, Section 4 of Part 2 of Form R, the maximum amount of the toxic chemical on site at any one time, and also Section 7 of Part 2 of Form R that requires respondents to estimate waste treatment methods and efficiencies for their chemicals as well as onsite recycling and energy recovery processes and methods. Second, facilities reporting more than one chemical will also be able to consolidate facility identification information onto a single Form A instead of multiple Form Rs.

Third, many facilities with volumes of production-related waste much lower than the 5,000-pound limit proposed for non-PBT chemicals or the 500-pound limit for PBT chemicals will be able to certify their eligibility for Form A based on their knowledge of the chemical use in the current year and its prior year volume of production-related waste rather than a precise estimate of production-related waste volumes that are required in Section 8 of Form R. For example, a facility that submitted a Form R for a non-PBT in a previous year, and for which the previous year's production-related waste was 600 pounds, may not need to calculate the precise volume in the present year to be able to certify that the production-related waste is less than 5,000 pounds, so long as the production volume has remained constant and the facility has not changed the production process. Contrast this with the situation where a second facility has a non-PBT chemical with a production-related waste volume of 4,800 pounds in the prior year. For this facility, it is more probable that because the prior year's volume is close to the proposed threshold of 5,000 pounds, this facility would need to more precisely estimate its production-related waste volume. Thus, some facilities with lower production-related waste volumes may be able to certify their Form A eligibility without having to precisely estimate the production-related volume because the prior year's estimate provides for an ample margin below the 5,000-pound threshold.

Attachment B: Annual Burden and Cost Savings

TABLE 3-1
ANNUAL BURDEN AND COST SAVINGS

	New Eligibility for Form A: PBT Chemicals Option	Expanded Eligibility for Form A: Non-PBT Chemicals Option^a	Combined Options
<i>Number of Affected Facilities</i>	2,064	6,461	7,958
<i>Number of Affected Forms</i>	2,703	12,201	14,904
<i>Average Annual Burden Savings in the First and Subsequent Years of the Proposed Rule (Hours)</i>			
Form Completion - non-PBT chemicals	N/A	92,728	92,728
Form Completion - PBT chemicals	41,897	N/A	41,897
Recordkeeping/Mailing	5,406	24,402	29,808
Total	47,303	117,130	164,432
<i>Average Annual Cost Savings in the First and Subsequent Years of the Proposed Rule</i>			
Form Completion - non-PBT chemicals	N/A	\$4,254,983	\$4,254,983
Form Completion - PBT chemicals	\$1,917,146	N/A	\$1,917,146
Recordkeeping/Mailing	\$219,246	\$989,648	\$1,208,893
Total	\$2,136,392	\$5,244,630	\$7,381,022
^a The number of affected facilities and forms in this analysis does not include the non-PBT Form Rs that are currently likely eligible for Form A based on an ARA of less than or equal to 500 pounds. The number of facilities cannot be summed across form types because some facilities filed both PBT and non-PBT forms. Source: Frozen RY2002 TRI data and Wage Rates from the U.S. Department of Labor (see Chapter 2).			

Note: It is important to clarify that portion of request # 5 that states "...in light of [a] facility's continued need to track annual volumes of production related waste to determine eligibility for Form A." Facilities currently submitting either a Form R or a Form A are not required to collect any new data beyond what is readily available and may use reasonable estimates when no data are available. (Emergency Planning and Community Right to Know Act, 42 U.S.C., Chapter 16, §11023 (g) (2) Use of Available Data)